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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 78-690

KATHLEEN R. REITER, PETITIONER
v.

SONOTONE CORPORATION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN RESPONSE TO THE OBJECTION OF RESPONDENTS

Respondents have filed an objection to the filing of the brief for the United States, contending that the brief was not timely filed.

The facts are as follows. The petition for a writ of certiorari was granted on January 8, 1979, making the brief for petitioner and any supporting amici due on February 22. No extensions of time were sought. The typescript brief for the United States was sent to the printer on the morning of February 16, 1979, with a request that page proofs be furnished on February 20, and final copy on February 22. On Sunday, February 18, and Monday, February 19, approximately two feet of snow fell in the District of Columbia. The printer's employees did not work on February 19 (a holiday) or February 20. Few employees reported for work on February 21. As a result, page proofs were not delivered until late afternoon on February 22.

These page proofs were mailed immediately to counsel, so that they would be aware of the arguments made by the United States and would have the full time allowed by the Court's rules

in which to respond. The proofs were corrected and returned to the printer on February 23. Printed copy was available in the afternoon of Monday, February 26, and was immediately mailed to counsel for respondents. (The statement by counsel for respondents that printed copies of the brief were not mailed until February 27 is incorrect.) The printed briefs contained no argument that was not present in the page proofs, which were timely served.*/ Under these circumstances, the objection to the filing of the brief by the United States is insubstantial.

Respectfully submitted.

WADE H. McCREE, JR.
Solicitor General

MARCH 9, 1979

*/ The only change in the versions (other than typographic and minor stylistic alterations) was the deletion from footnote 21 of a reference to a study to be published by the Department of Justice. The reference was deleted because the study is undergoing final revisions and has not yet been issued. (At the time we sent the typescript to the printer, the study was expected to be issued in late February, but that schedule has been delayed.) The tenor of the argument in footnote 21 was not changed by the deletion.